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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

VICTOR PARRA,

Petitioner,

v.

JAMES TILTON, Warden, et al.,

Respondents.

Civil No. 08CV0472 J (LSP)

**ANSWER TO PETITION FOR
WRIT OF HABEAS CORPUS**

Secretary Tilton files this Answer to the instant Petition for Writ of Habeas Corpus:

I.

Petitioner Victor Parra is in the lawful custody of James Tilton, Secretary of the California Department of Corrections, due to a valid judgment of conviction in Imperial County Superior Court case number JCF 15497, following a jury trial and guilty verdict on October 4, 2005, for battery on a correctional officer (Cal. Penal Code § 4501.5) and a four-year prison term imposed on November 18, 2005.

II.

Parra sought post-conviction relief in state court against imposition of the aggravated sentence, but the allegation as presently raised on federal habeas has not been properly exhausted.

III.

To the extent the Court considers the merits of Parra's allegation, he is not entitled to federal habeas relief.

IV.

Parra is not entitled to an evidentiary under 28 U.S.C. § 2254(e).

V.

Respondent incorporates by reference the transcripts and relevant records of the state-court proceedings that will be lodged with the Court.

VI.

Except as expressly admitted, Respondent denies each and every allegation of the Petition and specifically denies that Parra's confinement is in any way improper, that any condition of his confinement is illegal, or that any of his federal constitutional rights have been, or are being, violated in any way. The absence of a violation of Parra's constitutional rights compels the denial of relief.

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1 This Court should deny with prejudice each and every claim in the Petition for Writ of
2 Habeas Corpus, deny all other relief, and deny and request for a certificate of appealability.

3 Dated: April 28, 2008

4 Respectfully submitted,

5 EDMUND G. BROWN JR.
Attorney General of the State of California

6 DANE R. GILLETTE
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CERTIFICATE OF SERVICE BY U.S. MAIL

Case Name: **Parra v. Tilton**

No.: **08CV0472 J (LSP)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On April 28, 2008, I served the following documents:

ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Victor Parra, Jr.
P-58682
Richard J. Donovan Correctional Facility
P.O. Box 799002
San Diego, CA 92179-9002

Electronic Mail Notice List

I have caused the above-mentioned document(s) to be electronically served on the following person(s), who are currently on the list to receive e-mail notices for this case: NONE.

Manual Notice List

The following are those who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing): Victor Parra at the above-named address.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 28, 2008, at San Diego, California.

Anna Herrera

Declarant


Signature